

## **REMARKS**

The present Amendment is in response to the Examiner's Office Action (hereinafter referred to as the "Office Action") mailed September 26, 2007. By this paper, claims 1, 8, 9, 17, and 18 are amended, claim 10 is cancelled, and no new claims are added. Claims 1-9 and 11-21 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to whether it is proper to combine the cited references, as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references, as well as the whether it is proper to combine references, at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

## **II. Rejection Under 35 U.S.C. § 103**

The Office Action rejects claims 1, 3, 7, and 10-15 under 35 U.S.C. § 103 as being unpatentable over United States Patent No. 5,202,553 to Geller ("Geller") in view of United States Patent Publication No. 2002/0135845 to Robinson et al. (Robinson). Claims 2, 4, and 5 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller and Robinson and further in view of United States Patent No. 6,069,731 to Bayart ("Bayart"). Claims 8, 9, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of the Schild article ("Schild"). Claims 17, 18, 20, and 21 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Schild. Finally Claims 6 and 19 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and Schild and further in view of Bayart.

As an initial matter, Applicants note that in order to establish a *prima facie* case of obviousness, it is the burden of the Office Action to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP § 214*. Applicant traverses these rejections for at least the reasons that will be explained.

### **A. Claims 1, 3, 7, and 10-15**

As shown above, Applicant has amended independent claim 1 to recite an optical receiver comprising in part "a plurality of amplifiers which are connected to the receiving device, wherein the plurality of amplifiers each include at least a separate input amplifier stage and a separate output amplifier stage, wherein the input amplifier stages of the plurality of amplifiers are each coupled to the output of the optical receiving element, wherein the individual amplifiers of the plurality of amplifiers are connected in parallel with one another, and wherein the input amplifier stages of the plurality of amplifiers are only coupled to the output amplifier stage of the same individual amplifier. . ." Support for such amendment is found at least at Figure 1 and page 4, lines 34-36, page 5 lines 20-25, and page 7, lines 11-30 as originally filed.

In sharp contrast, the Office Action has not shown that the purported combination of Geller and Robinson teaches or suggests a plurality of amplifiers that each include at least a separate input amplifier stage and a separate output amplifier stage, wherein the input amplifier stages of the plurality of amplifiers are each coupled to the output of the optical receiving element, wherein the individual amplifiers of the plurality of amplifiers are connected in parallel with one another, and wherein the input amplifier stages of the plurality of amplifiers are only coupled to the output amplifier stage of the same individual amplifier.

For example, in the Office Action on page 11 admits that Geller does not teach a plurality of amplifiers that each include a separate input amplifier stage and thus cannot teach the other elements that have been added to claim 1 as they require a plurality of amplifiers with separate input stages.

Instead, the Office Action cites Figures 3 and 4 of Robinson to show a plurality of amplifiers with separate input stages. However, assuming *arguendo* that Robinson does teach a plurality of amplifiers that each include a separate input amplifier stage, it is clear from the cited Figures and the other portions of Robinson that Robinson does not teach or suggest the other newly added elements of amended claim 1.

For instance, Robinson in Figures 3 shows that both the purported separate input amplifier stages 74 and 76 are coupled to the same purported output amplifier stage 86 and thus cannot be coupled to separate output amplifier stages as required by amended claim 1. Further, Figure 4 of Robinson shows that both the purported separate input amplifier stages 74 and 76 are coupled to both purported output amplifier stages 104 and 106, and thus cannot satisfy the requirement of amended claim 1 that the input amplifier stages of the plurality of amplifiers are only coupled to the output amplifier stage of the same individual amplifier. This is the same with Geller, where the purported input amplifier stage 14 of Figure 4 is connected to purported output amplifier stages of two different amplifiers.

Further, the Figures and text of Robinson do not teach or suggest that the purported plurality of amplifiers shown in Robinson are connected in parallel with one another as recited in claim 1. The Office Action on page 5 maintains that Figure 4 of Geller shows that amplifiers 24 and 16 are connected in parallel. Assuming *arguendo* that this is true, this still does not teach the

element as recited in claim 1 as the purported parallel amplifiers of Geller do not have an input amplifier stage and an output amplifier stage as recited in claim 1.

The other art of record does not teach or suggest all the elements of amended claim 1 and also does not provide the elements of amended claim 1 missing in the purported combination of Geller and Robinson. For example, Bayart or Schild do not teach or disclose a plurality of amplifiers as recited in amended claim 1 as these references do not teach amplifiers connected in parallel that are configured as required by amended claim 1.

Thus, the Office Action has not established a *prima facie* case of obviousness for amended claim 1 at least because the Office Action has failed to show that the purported combination of Geller and Robinson teaches or suggests all the elements of amended claim 1. Accordingly, the obviousness rejection should be withdrawn from amended claim 1.

Inasmuch as claims 3, 7, and 10-15 depend from amended claim 1, Applicant notes that these claims are not rendered obvious by the purported combination of Geller and Robinson for at least the reasons amended claim 1 is not obvious in light of the cited art. Applicant thus respectfully requests that the obviousness rejection of dependent claims 3, 7, and 10-15 also be withdrawn.

**B. Claims 2, 4, and 5**

Claims 2, 4, and 5 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Bayart. As discussed above, the purported combination of Geller and Robinson does not teach each and every element of amended independent claim 1. Bayart does not teach the missing elements of the purported combination of Geller and Robinson, nor is it cited by the Office Action as teaching such. Thus, the purported combination of Geller, Robinson and Bayart does not teach each and every element of amended claim 1. Accordingly, based on their dependence to independent claim 1, dependent claims 2, 4 and 5 are patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 2, 4, and 5.

**C. Claims 8, 9, and 16**

Claims 8, 9, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Schild. As discussed above, the purported combination of Geller and Robinson does not teach each and every element of amended independent claim 1. Schild does not teach the missing elements of the purported combination of Geller and Robinson, nor is it cited by the Office Action as teaching such. Thus, the purported combination of Geller, Robinson and Schild does not teach each and every element of amended claim 1. Accordingly, based on their dependence to independent claim 1, dependent claims 8, 9, and 16 are patentable for at least the reasons that claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 8, 9, and 16.

**D. Claims 17, 18, 20, and 21**

Claims 17, 18, 20 and 21 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and further in view of Schild. As noted above, Applicant has amended independent claim 17 to disclose an optical receiver comprising in part “a plurality of amplifiers having inputs coupled to an output of the optical receiving element, wherein the amplifiers each have a unique gain characteristic associated therewith, wherein the plurality of amplifiers each include at least a separate input amplifier stage and a separate output amplifier stage, wherein the input amplifier stages of the plurality of amplifiers are each coupled to the output of the optical receiving element, wherein the individual amplifiers of the plurality of amplifiers are connected in parallel with one another, and wherein the input amplifier stages of the plurality of amplifiers are only coupled to the output amplifier stage of the same individual amplifier. . .” Support for such amendment is found at least at Figure 1 and page 4, lines 34-36, page 5 lines 20-25, and page 7, lines 11-30 as originally filed.

As discussed above in relation to amended claim 1, Geller, Robinson, and Schild, either singularly or in combination, do not teach or disclose a plurality of amplifiers having inputs coupled to an output of the optical receiving element, wherein the amplifiers each have a unique gain characteristic associated therewith, wherein the plurality of amplifiers each include at least a separate input amplifier stage and a separate output amplifier stage, wherein the input amplifier stages of the plurality of amplifiers are each coupled to the output of the optical receiving

element, wherein the individual amplifiers of the plurality of amplifiers are connected in parallel with one another, and wherein the input amplifier stages of the plurality of amplifiers are only coupled to the output amplifier stage of the same individual amplifier. Accordingly, the purported combination of Geller, Robinson and Schild fails to teach or suggest each and every element of amended claim 17.

Thus, the Office Action has not established a *prima facie* case of obviousness for amended claim 17 at least because the Office Action has failed to show that the purported combination of Geller, Robinson, and Schild teaches or suggests all the elements of amended claim 17. Accordingly, the obviousness rejection should be withdrawn from amended claim 17.

Inasmuch as claims 18, 20 and 21 depend from amended claim 17, Applicant notes that these claims are not rendered obvious by the purported combination of Geller, Robinson, and Schild for at least the reasons amended claim 17 is not obvious in light of the cited art. Applicant thus respectfully requests that the obviousness rejection of dependent claims 18, 20 and 21 also be withdrawn.

**E. Claims 6 and 19**


Claims 6 and 19 were rejected under 35 U.S.C. § 103(a) as being obvious over Geller in view of Robinson and Schild and further in view of Bayart. As discussed above, the purported combination of Geller, Robinson, and Schild does not teach each and every element of amended independent claims 1 and 17. Bayart does not teach the missing elements of the purported combination of Geller, Robinson, and Schild, nor are they cited by the Office Action as teaching such. Thus, the purported combination of Geller, Robinson, Schild, and Bayart does not teach each and every element of amended claims 1 and 17. Accordingly, based on their dependence to independent claims 1 and 17, dependent claims 6 and 19 are patentable for at least the reasons that amended claims 1 and 17 are patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 6 and 19.

**CONCLUSION**

In view of the foregoing, Applicants believe the claims as amended or presently pending are in allowable form and that every issue raised by the Office Action has been addressed. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorneys.

Dated this 25<sup>th</sup> day of February, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric L. Maschoff".

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